

Paternity scheme

(Including bereaved partner's paternity leave)

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Document history

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1. Introduction

- 1.1 There are a number of options open to those employees who qualify for paternity leave and this document is designed to let you know what you may be entitled to.
- 1.2 Employees can either apply for or be granted maternity support leave as outlined below in Section 2, or statutory paternity leave, but not a combination of the two schemes and/or both.
- 1.3 However an employee is able to apply for both paternity leave and pay (two weeks) and also shared parental leave and pay. See the Shared parental leave scheme for more details.

2. Maternity support leave

- 2.1 Service directors are authorised to grant up to five days (pro rata for part time employees) paid leave to employees who are the nominated carer of an expectant mother. This leave is to be taken at or around the time of the birth.
- 2.2 A nominated carer is the person nominated by the mother as their primary provider of support at or around the time of the birth; this could be the baby's father or someone who has a caring relationship with the mother and/or the child. See the [Compassionate and special leave procedure](#) for more details and the family related request form (ask your manager for this form).
- 2.3 If you take maternity support leave you may not also take statutory paternity leave.

3. Paternity leave - general

- 3.1 Employees may be eligible for statutory paternity leave of two weeks and statutory paternity pay if:
 - their partner is having a baby
 - they or their partner is adopting a child
 - they are having a baby through a surrogacy arrangement.

4. Before commencing paternity leave

- 4.1 You have an obligation to inform your manager and the HR and Payroll Transactions team of your intention to take paternity leave as soon as possible but there are different time lines depending on whether you are the partner of a pregnant woman, adopting or in a surrogacy arrangement. See below.
- 4.2 Notifications must be received if you are:
 - the partner of the pregnant woman, 28 days before leave is to be taken
 - adopting, 28 days notice is required
 - in a surrogacy arrangement, 28 days before leave is to be taken
- 4.3 You must provide either the:
 - start date of the leave to be taken (can be changed with reasonable notice)
 - duration of leave to be taken for example one or two weeks
 - week the baby is expected (if partner of pregnant woman or if applying for a parental order as part of a surrogacy arrangement)
 - date the child will be placed with you (UK adoptions)

- date the child entered the UK (overseas adoptions)

4.4 You must also be either the:

- biological father
- husband, civil partner or partner of the mother (or adopter)
- child's adopter
- intended parent (if having a baby through a surrogacy arrangement)

4.5 You will be required to complete a paternity leave request form which your line manager must sign to authorise.

5. Statutory paternity leave

5.1 Paternity leave is a day one right for all employees which means there is no qualifying period of service. This applies to birth, adoption and surrogacy cases

5.2 This day one right applies only to leave. Employees should note that there are length of service rules which apply to statutory paternity pay (see section 6).

5.3 Paternity leave can be taken as either one week or two weeks leave. It can be taken as two non-consecutive weeks if you wish to do so. The amount is the same even if there is more than one child for example twins.

5.4 Paternity leave cannot start before the birth of the child.

5.5 Paternity leave can start on one of the following:

- the actual date the baby is born or
- an agreed number of days after the birth
- any time during the 52 weeks of leave after birth
- the date on which the child is placed with the adopter or the following day
- a specified pre-determined date, which is later than the date on which the child is expected to be placed with the adopter
- a date falling a number of days after the date on which the child is placed with the adopter which you may specify

5.6 In order to be eligible for paternity leave in all cases you must: either

- be classed as an employee
- be employed up to the date the child is born or placed with the adopter
- give the correct notice (see paragraph 4.2)
- be taking time to look after the child or your partner
- be responsible for the child's upbringing
- confirm in writing that your partner is getting statutory adoption pay (if adopting)

5.6.1 Additional requirements for adoption.

You must

- confirm in writing that you are not taking statutory adoption leave
- confirm in writing that you have not taken paid time off work to attend adoption appointments
- be the spouse, civil partner or the partner of the child's adopter

5.6.2 Additional requirements for surrogacy

- be eligible for and intend to apply for a parental order in respect of the child
- expect to have main responsibility for the child (with the other parent on the parental order)

5.7 Employees who fulfil the above criteria can request paternity leave in accordance with the statutory paternity leave scheme by using the paternity leave request form (ask your manager for this form).

6. Paternity pay

6.1 If you qualify for paternity leave you **may** also be entitled to paternity pay. Employees who do not satisfy both the service requirement and earnings threshold set out below cannot receive statutory paternity pay, even though they may still take paternity leave from day one. Should this be the case any paternity leave would be unpaid.

6.2 Statutory Paternity Pay (SPP) – the details

6.2.1 Statutory paternity pay (SPP) is paid for one or two whole weeks at the lower figure; either

- view the [standard statutory paternity pay rate - GOV.UK](#)
- 90 per cent of Average Weekly Earnings (AWE) if your earnings are less per week than the statutory rate.

6.2.2 Statutory Paternity Pay is subject to PAYE (pay as you earn) and NI (national insurance) deductions and is paid on the usual salary pay day.

6.2.3 SPP is not payable in the following circumstances:

- in a week in which the person receives statutory sick pay
- following the death of the person receiving SPP
- where the person claiming SPP is detained in custody or in prison following sentence.

6.3 Qualifying for Statutory Paternity Pay

There are different requirements depending on whether you are

- the spouse
- civil partner or partner of the pregnant woman
- an adopter
- civil partner or partner of an adopter
- a parent who will be named on a parental order when in a surrogacy arrangement

6.3.1 Qualifying as the spouse, civil partner or partner of the pregnant woman

You must:

- earn on average at least the lower earnings limit a week (current limits can be obtained via HR services)
- give the correct notice
- have worked for the council continuously for at least 26 weeks up to the qualifying week

6.3.2 Qualifying as an adopter, the spouse, civil partner or partner of an adopter

You must:

- have at least 26 weeks continuous service at the ‘qualifying week’
- continue to be employed by the council until the date on which the child is placed
- have earned on average at least the lower earnings level in the eight weeks period leading up to the week in which you were notified you had been matched with the child you are adopting
- have elected to receive statutory paternity pay, be married to, the civil partner or the partner of the adopter and have the main responsibility for the care of the child (together with the other parent).

6.3.3 Qualifying as a parent who will be named on a parental order when in a surrogacy arrangement

You must:

- be an employee
- have at least 26 weeks continuous service at the 15 week before the week in which the baby is due
- continue to be employed by the council until the birth of the child
- have earned on average at least the lower earnings level in the eight weeks period leading up to the 15 week before the expected week of childbirth.
- be eligible for and or intend to apply for a parental order in respect of the child
- have elected to receive statutory paternity pay, be married to, the civil partner or the partner of the other parental order parent and have the main responsibility for the care of the child (together with the other parent).

6.3.4 In all cases if you have less than 26 weeks continuous service, by the end of the qualifying week or if your earnings are below the national insurance lower earnings limit you will **not be** entitled to SPP.

6.3.5 If you do not qualify for SPP the HR and Payroll Transactions team will provide you with a SPP1 form outlining why you are not eligible. You should then contact the Department for Work and Pensions to ascertain if you are eligible for other welfare benefits.

6.4 Qualifying week

6.4.1 The qualifying week for an employee who is the spouse, civil partner or partner of a pregnant woman is the 15 week before the week in which the baby is due (the expected week of childbirth).

6.4.2 The qualifying week for adopters (UK adoptions) is the week in which the prospective adopter is notified that they have been matched for adoption with a child.

6.4.3 The qualifying week for adopters (overseas adoptions) is the date the child enters the UK or the date when you want the paternity leave to start.

6.4.4 The qualifying week for those in a surrogacy arrangement is the 15 week before the week in which the baby is due (the expected week of childbirth).

7. Antenatal appointments

7.1 The right to unpaid time off to attend two antenatal appointments exists for the child’s father or the expectant mother’s spouse or civil partner. The unpaid time off is limited to six and a half hours for each appointment. (See the [Compassionate and special leave procedure](#) for more details.)

8. Fostering to adopt

- 8.1 Where paternity leave is taken at the time of a child being placed with the family in accordance with section 22C of the Children Act 1989 (initially for fostering) they are not entitled to a further amount of statutory paternity leave when the adoption process begins. There is only one entitlement to paternity leave and pay in respect of that child.

9. Multiple births

- 9.1. The amount of paternity leave is the same even if there are multiple births for example twins. The entitlement remains at two weeks leave to be taken either as two non-consecutive weeks leave, or as a consecutive two week period.

10. Death of a baby and still births

- 10.1 If a baby dies or is still-born after 24 weeks of pregnancy the employee will still qualify for paternity leave and pay.
- 10.2 Where death occurs before 24 weeks (miscarriage) sympathetic consideration will be given to the circumstances and special leave or sick leave may be granted. Each case will be examined on its merits.
- 10.3 The [Compassionate and special leave procedure](#) can be found on the Intranet or from your line manager.

11. Bereaved partner's paternity leave

- 11.1 Employees who suffer the bereavement of their child's primary carer (the child's mother, primary adopter, or primary carer in a surrogacy arrangement) will have a statutory right to Bereaved Partner's Paternity Leave (BPPL). This is a day-one right, meaning no minimum length of service is required
- 11.2 Eligible employees may take up to 52 weeks of unpaid leave to care for their child, provided the leave is taken within the first year following the child's birth or placement.
- 11.2 An employee qualifies for BPPL if, at the date of the bereavement:
- they are the child's father, or
 - the spouse, civil partner or partner of the deceased mother or primary adopter, or
 - the spouse/partner of the primary adopter, or
 - the primary parental order parent in surrogacy arrangements; and
 - they have the main responsibility for the child's upbringing; and
 - they intend to take leave for the purpose of caring for the child following the bereavement
- 11.3 Notice requirements depend on how soon after the bereavement leave is taken: for leave beginning within eight weeks notice may be given orally or in writing; for leave starting later at least one week's written notice is required.

All notices must include the date of the bereavement, the intended start date of leave and the child's date of birth or adoption placement (or date of entry into Great Britain for overseas adoptions)

- 11.4 During BPPL, employees benefit from protections comparable to other statutory family leave regimes:

- They are protected from unfair dismissal connected to taking or seeking to take BPPL.
- They are protected from detriment for reasons relating to BPPL.
- Employees may take up to 10 Keeping-in-Touch (KIT) days by agreement.
- Employees who are at risk of redundancy must be offered any available suitable alternative employment, in line with the enhanced redundancy protections given to other family leave groups.

12. Useful contact details

Address: HR and Payroll Transactions team, third Floor Town Hall

Tel: 01582 (54)6629

Email: hrrservices@luton.gov.uk